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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,606	03/31/2004	Robert Joseph Angen	64367.000002	4352
<div>21967 7590 06/21/2007 HUNTON & WILLIAMS LLP INTELLECTUAL PROPERTY DEPARTMENT 1900 K STREET, N.W. SUITE 1200 WASHINGTON, DC 20006-1109</div>				
			<div>EXAMINER NEWTON, JARED W</div>	
			<div>ART UNIT 3692</div>	<div>PAPER NUMBER</div>
			<div>MAIL DATE 06/21/2007</div>	<div>DELIVERY MODE PAPER</div>

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/813,606	Applicant(s) ANGEN ET AL.	
	Examiner Jared W. Newton	Art Unit 3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This final rejection is in reply to the remarks filed March 15, 2006, by which claims 1, 5-7, 10, 11, 14, 15, and 16 were amended.

At the outset, the Examiner apologizes for the error in entering the amendment mailed March 15, 2006, which resulted in the delay of this action. The Notice of Abandonment mailed January 30, 2007 has been withdrawn. Claims 1-18 are pending.

Specification

The amendment filed March 15, 2006 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The entire amendment.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1 and 10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter that was not described in the specification in such a way as to reasonably convey to one

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skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In particular, the Specification as originally filed does not set forth how the "shelf assembly may be removed without removing a fastener from the assembly" (lines 4-5). The Specification does not mention a "fastener," and the Drawings (see e.g. FIG. 10) show what appear to be fasteners ("attachment mechanisms" 40 and 42) as removed from both the "wall mount assembly" 26 and the "shelf mount assembly" 24.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In particular, the following recitation renders the claim indefinite: "for removably mounting the shelf assembly to a wall, such that the shelf assembly may be removed without removing a fastener from the assembly" (lines 3-5). First, the shelf assembly is not directly attached to a wall, so it is unclear how it can be removed from a wall to which it is not attached. Second, it is unclear from which assembly a fastener need not be removed from—the claim sets forth a shelf assembly and at least one wall mount assembly, but does not specify which assembly is in association with the "fastener." Because the Specification does not set forth a "fastener," it does not provide sufficient basis to allow one of ordinary skill in the art to ascertain the meaning of claim 1.

Moreover, the drawings show "attachment mechanisms" in association with both mounts.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Inasmuch as the claims are understood in light of the above objections and 112 rejections, Claims 1, 5, 6, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 606,889 to Gregory.

In regard to claim 1, Gregory discloses a bracketed support shelf comprising an upper surface M and a lower surface disposed oppositely from said upper surface (see FIG. 1). Gregory further discloses a wall mounting assembly A and E for removably mounting the shelf assembly to a wall; and a mounting bracket or disk assembly N for rotably and removably mounting an object such that said object may be rotated on said disk via rotatable fastener O, and said object may be secured to and removed from said disk via mounting holes P (see FIGS. 1 and 2). The support as disclosed by Gregory further enables a person to view at least a majority of an object secured to said disk N from the second (bottom) side of said support.

In regard to claim 5, the system disclosed by Gregory is capable of mounting a model car as a display object.

In regard to claim 6, Gregory discloses mounting screw holes P capable of receiving a packaging attachment mechanism to secure an object to the bracket or disk N, said disk being removably and rotably attached to said shelf assembly via fastener O (see FIG. 1). It is noted that the packaging attachment mechanism according to the disclosure of the present application comprises "...bolts, screws, and the like..." (Page 5, Line 14). Because the Gregory reference provides screw holes adaptable to receive a packaging mechanism such as screws, the reference inherently meets the limitations of the claim.

In regard to claim 7, Gregory further discloses the bracket or disk N as having one side connectable to an object, and an opposite side removably connected to the shelf assembly (see FIG. 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, 10, 11, 12, 14, 15, and 16, are rejected under 35 U.S.C. 103(a) as being unpatentable over '889 to Gregory as applied to claim 1 above, and further in view of U.S. Patent No. Des. 305,190 to Winter et al.

In regard to claims 2, 10, 11, 14, 15, and 16, Gregory discloses a shelf structure comprising all of the limitations of claim 1, but does not disclose said assembly being transparent. Winter discloses a display shelf comprising a transparent shelf assembly and transparent wall mounting assemblies (see FIG. 1).

It would have been obvious to one of ordinary skill in the art at the time of the invention to construct the shelf structure as disclosed by Gregory of a transparent material as disclosed by Winter. The motivation for using a transparent material would be to focus visual attention on the object supported by said shelf. It is well known and obvious in the art of display shelves to construct the shelves of a transparent material so that attention is focused on the object displayed as opposed to the shelf itself. Such displays are shown in U.S. Patent Nos. D476,841 and D476,840 to Hoernig

In regard to claims 3 and 12, Gregory does not disclose said shelf assembly disposed at an acute angle relative to the vertical mounting surface. Winter discloses said display shelf as being disposed at an acute angle relative to a wall (see FIG. 3).

It would have been further obvious to one of ordinary skill in the art at the time of the invention to dispose the shelf structure as disclosed by Gregory at an acute angle relative to its mounting surface. The motivation for orienting said shelf at an acute angle would be to bias the object displayed towards the mounting surface, so that if said object became detached from said shelf structure, it would fall backwardly against the wall as opposed to forwardly off the shelf.

In regard to claim 14, the system disclosed by Gregory is capable of mounting a model car as a display object.

Claims 8, 9, 17, and 18, are rejected under 35 U.S.C. 103(a) as being unpatentable over '889 to Gregory in view of '190 to Winter as applied to claims 2, 3, 10, 12, 15, and 16 above, and further in view of U.S. Patent No. 5,165,539 to Peters.

Gregory in view of Winter discloses a shelf structure comprising all of the limitations of claims 7 and 16, but does not disclose said mounting disk or bracket to Gregory as being transparent, or enabling a viewer to see a portion of the display object through said bracket. Peters discloses a display device comprising an object supporting portion 30 comprised of transparent material (see Column 2, Line 28). It would have been obvious to one of ordinary skill in the art at the time of the invention to construct the support portion or disk as disclosed by Gregory of a transparent material as disclosed by Peters, so that an object on said disk is viewable from all angles. The motivation for providing a transparent support portion would be to focus visual attention on the object supported by said support disk. It is well known and obvious in the art of display assemblies to construct the support portions of a transparent material so that attention is focused on the object displayed as opposed to the support portion itself.

Claims 4 and 13, are rejected under 35 U.S.C. 103(a) as being unpatentable over '889 to Gregory in view of '190 to Winter as applied to claims 2, 3, 10, 12, 15, and 16 above, and further in view of U.S. Patent No. 6,467,745 to Sickels.

Gregory in view of Winter discloses a shelf structure comprising all of the limitations of claims 1 and 10, but does not disclose said shelf as being disposed in a parallel relationship to a vertical surface. Sickels discloses a mounting bracket assembly for adjustably mounting an object to a support surface, such as a wall (see FIG. 1).

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Sickels further discloses the main support surface 24 disposed in a parallel relationship to said wall 14 (see FIG. 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the wall mount assembly as disclosed by Sickels to mount the shelf assembly as disclosed by Gregory, so that the shelf assembly is disposed in a parallel relationship to the wall. The motivation for including the wall mount assembly as disclosed by Sickels would be to allow the shelf as disclosed by Gregory to support long objects that would come into contact with the wall surface when the shelf is disposed perpendicularly to said wall. Orienting the shelf parallel to the wall is an obvious solution to the problem of supporting objects of any size or length.

Response to Arguments

In view of the Amendments filed March 15, 2006, the Claim Rejections under 35 U.S.C. 112 set forth in the Office Action mailed December 1, 2005, are hereby withdrawn.

Applicant's arguments filed March 15, 2006, with respect to the Gregory, Winter, Sickels, and Peter references have been fully considered but they are not persuasive.

With respect to the rejections based on Gregory, the Applicant recites, "The wall mounting assembly A and E disclosed in Gregory does not anticipate a shelf mounting assembly that can be removed without removing a fastener from the assembly." (Remarks, page 8). As set forth in the 35 U.S.C. § 112 Rejections above, the claim limitation regarding the non-removal of fasteners is deemed new subject matter because it was not set forth in the Disclosure of the present Application as originally

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filed. Because it is deemed new subject matter, Applicant's arguments regarding this limitation are moot. However, even if there did exist support for this limitation in the Application as originally filed, the Gregory reference would nonetheless anticipate it. The limitation sets forth non-removal of fasteners from some assembly, but does not specify which assembly. In regard to the Gregory reference, Applicant recites, "Removing the wall assembly A and E disclosed in Gregory would require the removal of the four screws from the screw-holes B." (Remarks, page 8). On the contrary, it is within the scope of the Gregory reference to remove the wall assembly A and E while maintaining fasteners in the fastener holes B, and simply removing said fasteners and said assembly from a wall or other surface simultaneously. For at least this reason, the Gregory reference teaches a shelf assembly that can be removed without removing a fastener from the assembly.

Applicant further states, "Gregory also does not disclose a device being attached to a wall as specified in amended claim 1..." (Remarks, page 8). This assertion is unclear because nowhere in the amended claims does Applicant positively claim a wall, or a device attached to a wall. Rather, claim 1 functionally sets forth "one or more wall mounting assemblies for removably mounting the shelf assembly to a wall..." (Claim 1, lines 3-4). Because a wall is not a positively required element of the claimed invention (but rather an intended use for the claimed device), a reference need only be capable of attaching to a wall. Indeed, Gregory teaches the intended purpose of attaching to a desk; however, this teaching does not preclude the support from attaching to a wall.

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Because the support is well capable of attaching to a wall, it anticipates the claim 1 limitations.

Applicant further states, "Disk N of Gregory does not anticipate the display object mounting assembly in claim 1 or 6 of the present application." (Remarks, page 8).

Applicant fails to support this assertion. The fact that Gregory refers to his invention's "supported object as a typewriter, machine, or the like nineteen times" (Remarks, page 8) is not relevant to the question of whether it teaches the structural limitations of claims 1 and 6. Therefore, the Examiner maintains that the Gregory reference anticipates claims 1 and 6 as set forth above.

Applicant further states, "Gregory also fails to disclose [a retrofit bracket comprising at least two sides, a first side being secured to the display object and a second side being secured to the shelf assembly." (Remarks, page 9). As set forth above, Gregory teaches a bracket N that could be a retrofit bracket, and that has "a first side capable of being secured to a display object and a second side being secured to the shelf assembly" as required by claim 1 of the present Application. Applicant supports his assertion, stating: "Disk N of Gregory has fixed holes P which may not accommodate existing packaging attachment mechanisms." (Remarks, page 9). "Existing packaging attachment mechanisms" however, are not part of the claimed invention, and therefore need not be accommodated by a reference for that reference to anticipate claim 7.

In regard to Applicant's remarks regarding the rejection of claims 3 and 12, it is noted that a wall is not part of the claimed invention, and so to meet the limitations, a reference or combination of references need only be capable of mounting at an acute angle to some wall. Gregory is capable of mounting to some wall having straight and angled portions, and thus if Gregory were mounted on said wall, it would be mounted to the wall at an angle to at least a portion of the wall, and said angle could be an acute angle. Specifically in regard to the Rejections under 35 U.S.C. § 103 based on Gregory in view of Winter, Applicant states: "The display object mounting assembly would eliminate the motivation to "bias the object displayed towards the mounting surface" (Remarks, page 10). It is unclear how this motivation would be destroyed by utilizing the mount of Winter to mount the shelf structure of Gregory as set forth above. If this combination were employed, the result would be a tilt of the Gregory device towards the wall to which it is mounted via the mount of Winter. It is further unclear why Applicant states: "No such motivation exists in the present application." (Remarks, page 10). The motivation relied upon above was discerned from the Winter reference, and not from the present Application.

In regard to the remaining rejections (Gregory in view of Winter and further in view of Peters and Sickels), Applicant relies on his remarks regarding the alleged deficiencies in the Gregory reference. Because the rejections based on Gregory alone and in combination with Winter are maintained as set forth above, the rejections based on Gregory as a Primary reference are similarly maintained.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

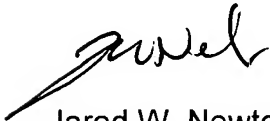
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared W. Newton whose telephone number is (571) 272-2952. The examiner can normally be reached on M-F 8-5.

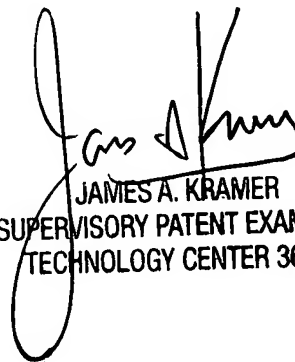
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Cramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jared W. Newton
June 8, 2007
JWN



6/11/07

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